



General Assembly

January Session, 2009

**Amendment**

LCO No. 7024

**\*HB0543607024SD0\***

Offered by:

SEN. WILLIAMS, 29<sup>th</sup> Dist.

SEN. LOONEY, 11<sup>th</sup> Dist.

SEN. GAFFEY, 13<sup>th</sup> Dist.

SEN. HANDLEY, 4<sup>th</sup> Dist.

SEN. MCDONALD, 27<sup>th</sup> Dist.

SEN. STILLMAN, 20<sup>th</sup> Dist.

SEN. SLOSSBERG, 14<sup>th</sup> Dist.

SEN. CRISCO, 17<sup>th</sup> Dist.

To: Subst. House Bill No. 5436

File No. 878

Cal. No. 582

**"AN ACT CONCERNING GUIDE OR ASSISTANCE DOGS AND  
AUTOMOBILE INSURANCE COVERAGE."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 38a-686 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

5 The following standards, methods and criteria shall apply to the  
6 making and use of rates pertaining to personal risk insurance:

7 (a) Rates shall not be excessive, inadequate or unfairly  
8 discriminatory.

9 (1) A rate in a competitive market is not excessive. A rate in a  
10 noncompetitive market including a rate for insurance provided  
11 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is

12     unreasonably high for the insurance provided.

13         (2) No rate shall be held inadequate unless (A) it is unreasonably  
14     low for the insurance provided, and (B) continued use of it would  
15     endanger solvency of the insurer, or unless (C) such rate is  
16     unreasonably low for the insurance provided and the use of such rate  
17     by the insurer using same has, or, if continued will have, the effect of  
18     destroying competition or creating a monopoly.

19         (b) In determining whether rates comply with the excessiveness  
20     standard in a noncompetitive market under subdivision (1) of  
21     subsection (a) of this section, the inadequacy standard under  
22     subdivision (2) of subsection (a) of this section and the requirement  
23     that rates not be unfairly discriminatory, the following criteria shall  
24     apply:

25         (1) Consideration may be given, to the extent possible, to past and  
26     prospective loss experience within and outside this state, to  
27     conflagration and catastrophe hazards, to a reasonable margin for  
28     underwriting profit and contingencies, to past and prospective  
29     expenses both country-wide and those specially applicable to this  
30     state, to investment income earned or realized by insurers both from  
31     their unearned premium and loss reserve funds, and to all other  
32     factors, including judgment factors, deemed relevant within and  
33     outside this state and in the case of fire insurance rates, consideration  
34     may be given to the experience of the fire insurance business during  
35     the most recent five-year period for which such experience is available.  
36     Consideration may be given in the making and use of rates to  
37     dividends, savings or unabsorbed premium deposits allowed or  
38     returned by insurers to their policyholders, members or subscribers.

39         (2) The systems of expense provisions included in the rates for use  
40     by an insurer or group of insurers may differ from those of other  
41     insurers or groups of insurers to reflect the operating methods of any  
42     such insurer or group with respect to any kind of insurance, or with  
43     respect to any subdivision or combination thereof.

44 (3) Risks may be grouped by classifications for the establishment of  
45 rates and minimum premiums, provided that with respect to private  
46 passenger nonfleet automobile insurance, any change in territorial  
47 classifications shall be subject to prior approval by the Insurance  
48 Commissioner, and provided no surcharge on any motor vehicle  
49 liability or physical damage insurance premium may be assigned for  
50 (A) any accident involving only property damage of one thousand  
51 dollars or less, or (B) the first accident involving only property damage  
52 of more than one thousand dollars which would otherwise result in a  
53 surcharge to the policy of the insured, within the experience period set  
54 forth in the insurer's safe driver classification plan, or (C) any violation  
55 of section 14-219 unless such violation results in the suspension or  
56 revocation of the operator's license under section 14-111b, or (D) less  
57 than three violations of section 14-218a within any one-year period, or  
58 (E) any accident caused by an operator other than the named insured,  
59 a relative residing in the named insured's household, or a person who  
60 customarily operates the insured vehicle, or (F) the first or second  
61 accident within the current experience period in relation to which the  
62 insured was not convicted of a moving traffic violation and was not at  
63 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this  
64 subdivision shall not be applicable to any plan established pursuant to  
65 section 38a-329. Classification rates may be modified to produce rates  
66 for individual risks in accordance with rating plans which provide for  
67 recognition of variations in hazards or expense provisions or both.  
68 Such rating plans may include application of the judgment of the  
69 insurer and may measure any differences among risks that can be  
70 demonstrated to have a probable effect upon losses or expenses.

71 (4) Each rating plan shall establish appropriate eligibility criteria for  
72 determining significant risks which are to qualify under the plan.  
73 Rating plans [which] that comply with the provisions of this  
74 subdivision shall be deemed to produce rates [which] that are not  
75 unfairly discriminatory.

76 (c) Notwithstanding the provisions of subsections (a) and (b) of this  
77 section, no rate shall include any adjustment designed to recover

78 underwriting or operating losses incurred out-of-state.

79 (d) With respect to a homeowners insurance policy, an insurer shall  
80 not cancel or refuse to (1) deliver, (2) issue for delivery, (3) renew, (4)  
81 amend, or (5) continue such policy solely on the basis of the  
82 homeowner's ownership of a dog that has bitten a person or animal or  
83 solely on the basis of the breed of dog owned by the homeowner. At  
84 the homeowner's election, the insurer shall offer to such owner the  
85 option of excluding liability for such dog from such policy or a rider  
86 for such dog. The rate for such rider shall not be excessive, inadequate  
87 or unfairly discriminatory. If a homeowner elects to exclude liability  
88 for such dog from such owner's homeowners insurance policy, the  
89 insurer shall not be held strictly liable under section 38a-321, as  
90 amended by this act.

91 [(d)] (e) The commissioner may adopt regulations, in accordance  
92 with the provisions of chapter 54, concerning rating plans to effectuate  
93 the provisions of this section.

94 Sec. 502. Section 38a-321 of the general statutes is repealed and the  
95 following is substituted in lieu thereof (*Effective October 1, 2009*):

96 [Each] Except as provided in subsection (d) of section 38a-686, as  
97 amended by this act, each insurance company [which] that issues a  
98 policy to any person, firm or corporation, insuring against loss or  
99 damage on account of the bodily injury or death by accident of any  
100 person, or damage to the property of any person, for which loss or  
101 damage such person, firm or corporation is legally responsible, shall,  
102 whenever a loss occurs under such policy, become [absolutely] strictly  
103 liable, and the payment of such loss shall not depend upon the  
104 satisfaction by the assured of a final judgment against him for loss,  
105 damage or death occasioned by such casualty. No such contract of  
106 insurance shall be cancelled or annulled by any agreement between the  
107 insurance company and the assured after the assured has become  
108 responsible for such loss or damage, and any such cancellation or  
109 annulment shall be void. Upon the recovery of a final judgment

110 against any person, firm or corporation by any person, including  
111 administrators or executors, for loss or damage on account of bodily  
112 injury or death or damage to property, if the defendant in such action  
113 was insured against such loss or damage at the time when the right of  
114 action arose and if such judgment is not satisfied within thirty days  
115 after the date when it was rendered, such judgment creditor shall be  
116 subrogated to all the rights of the defendant and shall have a right of  
117 action against the insurer to the same extent that the defendant in such  
118 action could have enforced his claim against such insurer had such  
119 defendant paid such judgment."